



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

SMC

Docket No: 06745-99

23 March 2000

GYSGT [REDACTED] USMCR
[REDACTED]

Dear Gunnery Sergeant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 27 October 1999, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

6745-99
IN REPLY REFER TO:
1610

MMER/PERB

OCT 27 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF
GUNNERY SERGEANT [REDACTED], USMCR

Ref: (a) GySgt. [REDACTED] DD Form 149 of 21 Oct 98
(b) MCO P1610.7D

Encl: (1) Completed Fitness Report 950815 to 960211 (EN)

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 11 August 1999 to consider Gunnery Sergeant [REDACTED] petition contained in reference (a). Removal of the fitness report for the period 950815 to 960211 (EN) was requested. Reference (b) is the performance evaluation directive governing submission of the report.

2. The petitioner challenges the fairness of the report based on his contention that there was insufficient time for him to be evaluated. To support his appeal, the petitioner furnishes his own statement and a copy of the challenged fitness report.

3. In its proceedings, the PERB concluded that, with one exception, the report is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

a. In his rebuttal to this adverse fitness report, the petitioner surfaced his concerns, objections, and disagreements. The Reviewing Officer addressed all of the issues; however, in so doing, he added new/additional adverse material which the petitioner should have been allowed to review and provide commentary.

b. Given the substance of the Reviewing Officer's remarks, the Board concluded that referral of Captain [REDACTED] comments would be an appropriate course of action. That action was initiated and the petitioner acknowledged receipt of official correspondence from this Headquarters on 4 September 1999. When he failed to respond within 15 days of receipt of the official correspondence, his case was administratively closed without further action.

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4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness report, as reflected in the enclosure, should remain a part of Gunnery Sergeant [REDACTED] official military record.

5. The case is forwarded for final action.

[REDACTED]
Chairperson, Performance
Evaluation Review Board
Personnel Management Division
Manpower and Reserve Affairs
Department
By direction of the Commandant
of the Marine Corps